

AGENDA

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, July 27, 2009

5:00 p.m. Workshop

7:00 p.m. Call to Order

5:00 – 7:00 p.m. WORKSHOP with Planning Board and Comprehensive Plan Committee to continue a review new Comprehensive Plan draft.

I. APPROVAL OF MINUTES

July 13, 2009

II. MANAGER'S REPORT

- Town Council Pictures, August 10th
- Set Sewer User Fees, August 24th

III. PUBLIC DISCUSSION

IV. LEGISLATION AND POLICY

09 – 109 To hold a Public Hearing to consider and act on a Consent Decree for properties located at 52 Idlewood Drive, Map R05C/Lot 5 and 74 Idlewood Drive, Map R05C/Lot 8.

09 – 110 To hold a Public Hearing to consider and act on certain amendments to the 2007–2010 Agreement between the Town of Cumberland and the Cumberland Police Benevolent Association. ***TABLE TO AUGUST 24TH.***

09 – 111 To hold a Public Hearing to consider and act on a recommendation from the Twin Brook Committee re: amendments to the Twin Brook Recreation Facility Use Policy.

09 – 112 To hold a Public Hearing to consider and act on adopting a Stormwater Discharge Ordinance.

09 – 113 To hold a Public Hearing to establish fees for the Town of Cumberland Yard Waste

Facility, effective *August 1, 2009*.

09 – 114 To set *October 19 – October 23, 2009* as Bulky Waste Pick-Up Week.

09 – 115 To set a Workshop date of *August 24th* to discuss the Small Wind Energy Systems Ordinance.

09 – 116 To set a Public Hearing date (*August 10th*) to set rates at which interest will be paid for delinquent and over paid taxes, and to authorize applying tax payments to the oldest unpaid taxes.

09 – 117 To set a Public Hearing date (*August 10th*) to consider and act on the reappointment of William Healey as Cumberland Tax Assessor for a three-year term.

09 - 118 To set a Public Hearing date (*August 10th*) to consider and act on setting the FY10 tax rate as recommended by the Tax Assessor.

09 - 119 To set a Public Hearing date (*August 10th*) to set Sewer User Fees as recommended by the Town Manager.

09 - 120 To set a Public Hearing date (*August 10th*) to review and consider amending the Cumberland Circuit Breaker Ordinance and establish refund rates for FY10.

09 – 121 To set a Public Hearing date (*August 10th*) to consider and act on a “blanket” Mass Gathering Permit for Twin Brook Recreation Area events.

09 – 122 To set a Public Hearing date (*August 10th*) to consider and act on a Mass Gathering Permit for the Central Maine Kennel Club/Mid Coast Kennel Club dog show to be held at the Cumberland Fairgrounds *August 27 – 30, 2009*.

V. NEW BUSINESS

VI. ADJOURNMENT

MINUTES

Cumberland Town Council Meeting

Town Council Chambers

MONDAY, July 13, 2009

6:00 – 8:00 p.m. WORKSHOP with Planning Board and Comprehensive Plan Committee to review new Comprehensive Plan draft.

8:00 p.m. - CALL TO ORDER: Chairman Copp, Councilors Turner, Perfetti, Storey-King, Porter, Moriarty and Stiles.

I. APPROVAL OF MINUTES

June 22, 2009

Motion by Councilor Turner, seconded by Councilor Stiles, to approve the minutes as amended.

VOTE: UNANIMOUS PASSAGE 6-0 (Councilor Moriarty abstaining)

II. MANAGER'S REPORT

- Range Road is progressing well – 1,000 feet of road completed to the gravel stage; pre-blast surveys will start within next week and blasting for waterline thereafter.
- Several new fiscal year items before the council at August 10th meeting; Tax Assessor will also attend August 10th meeting.
- Recommended Ordinance Subcommittee meeting regarding circuit breaker program and Stormwater Ordinance; state circuit breaker reductions may have implications for our own local program.

III. PUBLIC DISCUSSION

No comments received.

IV. LEGISLATION AND POLICY

09 – 101 To set a Public Hearing date (July 27th) to consider and act on a Consent Decree for properties located at 52 Idlewood Drive, Map R05/Lot C8 and 74 Idlewood Drive, Map R05/Lot C8.

Two Consent Decrees are recommended to address the cutting and filling violations 52 and 74 Idlewood Drive. After complaint to and inspection by the Code Enforcement Officer, it was determined that the majority of the homes within the Idlewood Subdivision are non-compliant with the subdivision's conditions of approval. The Town Manager suggested the violations occurred unwittingly and explained the homeowners within this subdivision will have difficulty selling their properties as these violations are uncovered during the transaction title work. These Consent Decrees will serve as a template if issues should arise with additional homeowners in the future. The Consent Decrees include a mitigation plan addressing replanting of trees and/or vegetation, removal of gravel access driveway, stabilization of all disturbed areas, restoration of wetlands and other miscellaneous repairs. All work must be completed by October 15, 2009. No public comments received at the meeting. The Manager requested approval of the Consent Decrees with the imposition of a \$300 attorney fee and \$500 fine.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a public hearing date of July 27, 2009 to consider and act on a Consent Decree for properties located at 52 Idlewood Drive, Map R05/Lot C8, and 74 Idlewood Drive, Map R05/Lot C8.

VOTE: UNANIMOUS PASSAGE 7-0

09 – 102 To hold a Public Hearing to consider and act on a Consent Decree for property located at 486 Greely Road Extension, Map R06/Lot 39B.

The current homeowners purchased this property between five and six years ago and recently learned their garage is three feet too close to the right-of-way line. The Manager requested the Code Enforcement Officer be authorized to enter into a Consent Decree. A prior Code Enforcement Officer approved the plan for this property, and the plan as recorded depicted a 50 foot right-of-way along the northwesterly boundary of the lot. The house and garage were present when the plan was recorded. The present owners purchased the property in 2004 and the setback violation was not disclosed at the time.

Manager Shane explained past practice with Consent Decrees has included a requirement that the homeowner pay attorney's fees and fine. Councilor Stiles responded with his belief that the fine and fees should be waived because the prior Code Enforcement Officer approved the plan. Councilor Perfetti noted the fee was not waived as part of a different Idlewood Consent Decree. "We have to be consistent." The Manager added the plan presented to the town in 2004 depicted a 50 foot right-of-way which was to be retained by the prior owners. He believes the error occurred with the original surveyor.

The current property owner, Nick Nataluk, informed the council that the surveyor who recently revealed the encroachment has passed away, thereby preventing any opportunity for recourse. "The garage has been there a lot longer than the right-of-way." His home is under contract and a closing date scheduled for last Friday was rescheduled to this Thursday. Councilor Turner indicated the recent surveyor was severely ill at the end of his life and "his results, unfortunately, turned out to be in question" on several occasions.

Motion by Councilor Perfetti, seconded by Councilor Moriarty, to authorize the Code Enforcement Officer to sign a Consent Decree with Nicholas & Sarah Nataluk for property located at 486 Greely Road Extension, Map R06/Lot 39B, and a \$500 fee assessed.

VOTE: PASSAGE 6-1 (Councilor Turner opposed)

09 – 103 To set a Public Hearing date (July 27th) to consider and act on certain amendments to the 2007–2010 Agreement between the Town of Cumberland and the Cumberland Police Benevolent Association.

Councilor Turner noted this item will be considered during Executive Session and recommended tabling the item until the conclusion of the Executive Session. Chairman Copp pronounced the item tabled until after the Executive Session. No public comments received at the meeting.

09 – 104 To set a Public Hearing date (July 27th) to consider and act on a recommendation from the Twin Brook Committee re: amendments to the Twin Brook Recreation Facility Use Policy.

Councilor Porter referred to the council material, clarifying the amendments involve only those highlighted in yellow and the Manager responded affirmatively. Policy amendments are recommended to Sections (h), (l) and (r), only and those changes relate to grilling, incendiary devices, hours and stargazing events. No public comments received at the meeting.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to set a public hearing date of July 27, 2009 to consider and act on a recommendation from the Twin Brook Committee re: amendments to the Twin Brook Recreation Facility Use Policy.

VOTE: UNANIMOUS PASSAGE 7-0

09 – 105 To set a Public Hearing date (July 27th) to consider and act on adopting a Stormwater Discharge Ordinance.

The Manager explained the town is required by the Department of Environmental Protection to develop and adopt a Stormwater Discharge Ordinance. He recommended review by the Ordinance Subcommittee prior to a July 27th public hearing. No public comments received at the meeting.

Motion by Councilor Moriarty, seconded by Councilor Stiles, to set a public hearing date of July 27, 2009 to consider and act on adopting a Stormwater Discharge Ordinance.

VOTE: UNANIMOUS PASSAGE 7-0

09 – 106 To set a Public Hearing date (July 27th) to establish fees for the Town of Cumberland Yard Waste Facility, to become effective August 1, 2009.

Councilor Porter indicated he has received opposition to this idea. He supports options for an annual permit and requested this consideration at the next meeting. Chairman Copp also received negative feedback. The Town Manager explained his recommendation includes a \$25 annual windshield sticker, a \$250 commercial vehicle pass, and “everything in between is \$5 per load.” Then, we “can reevaluate it. The reason for this is just to cover our overtime cost” and break even. No public comments received at the meeting.

Motion by Councilor Stiles, seconded by Councilor Turner, to set a public hearing date of July 27, 2009 to establish fees for the Town of Cumberland Yard Waste Facility, effective August 1, 2009.

VOTE: UNANIMOUS PASSAGE 7-0

09 – 107 To authorize the Town Manager to enter into a lease/purchase agreement with Komatsu Financial Limited Partnership for a front-end loader.

The Finance Committee and Town Council reviewed a request for funding of a front end loader at a cost of \$140,000. A decision was made to seek other alternatives and the public services department located a 2009 loader with only 300 hours of operation, at a cost which is less than a loader purchased by the town three years ago. The Manager thanked Public Services Director Bill Landis, Supervisor Steve Googins, and RC Hazelton. Councilor Storey-King asked about a warranty. The purchase comes with a “five year on the power train and a one year bumper to bumper” warrantee. No public comments received at the meeting.

Motion by Councilor Perfetti, seconded by Councilor Turner, as follows: It is ORDERED that pursuant to Article II, Section 3 (k) of the Council/Manager Charter of the Town of Cumberland, the Town Council hereby authorizes the Town Manager to enter into a certain Lease/Purchase Agreement dated July 5, 2009 with Komatsu Financial Limited Partnership in regard to the lease-purchase of a Komatsu WA200PZ-6 front-end loader for a total cost of \$97,500.00; \$77,500.00 to be financed and \$20,000 to be credited for a trade-in of the Town’s current John Deere loader.

VOTE: UNANIMOUS PASSAGE 7-0

09 – 108 To appoint members to the Village Center Committee.

On behalf of the Council's Nominating Committee, Councilor Moriarty presented the following nominations for appointment to the Village Center Committee:

Carrie Burnsteel, Main Street; Thomas Foley, Granite Ridge Road; Bill Follett, Main Street; Ronald Dillon, Bruce Hill Road; Charles Staples, Harris Road; James Orser, Gray Road; Greg Sweetser, Blanchard Road; Steve Sloan, Main Street; Frank Pitassi, Rosa Way; Michael LeVert, Range Road; and Charles Staples, Harris Road.

Councilor Moriarty also recommended the following committee nominations: Marla LeBlanc, Prince Memorial Library Advisory Board; Kristen Grannell, Coastal Waters Commission; and Jessica Joyce, Shellfish Conservation Commission.

The Manager recommended a review of Councilor Perfetti's original committee "charge" prior to scheduling a meeting of the new committee. Councilor Porter agreed a charge is necessary but believes the original charge was "very broad. What they choose to do with that document... is totally important. It's wide open in regard to Main Street." He also expressed his dislike for the "Village Center" name. Councilor Perfetti responded that he felt it is "a little more generic than just calling it Main Street."

Motion by Councilor Moriarty, seconded by Councilor Porter, to appoint the nominated members to the Village Center Committee.

VOTE: UNANIMOUS PASSAGE 7-0

Motion by Councilor Moriarty, seconded by Councilor Turner, to appoint the additional three nominees.

VOTE: UNANIMOUS PASSAGE 7-0

V. NEW BUSINESS

Councilor Porter – phone calls re: one-time fees for trash recycling.

Councilor Storey-King – community family "off to Singapore"; she taught several of the children, and wished the family the best.

Chairman Copp – a week ago today he had the occasion to call our rescue department to his shop; very fast response time by the rescue personnel; three firefighter/emt's did an outstanding job; medical attention was administered and customer was not transported to the hospital; thanked Councilor Storey-King for the recent excellent cook-out.

Councilor Stiles – great/fun time at Councilor Storey-King's barbeque; Val Halla received the best Maine municipal golf course award, which was published in Golf Digest; kudos to Manager and staff for great job with the golf course.

Manager – the three firefighter/emt's responding to Chairman Copp's establishment were David St Claire; Sheldon Gregoire and Nate Schools; Main Street Credit Union moving forward to Planning Board a week from tomorrow evening; town has spent over \$2,000 in legal fees "and we have not gone to court yet"- incurring additional fees as we speak; timeframe could be months or years; the credit union can move forward "at their own risk".

VI. EXECUTIVE SESSION: pursuant to M.R.S.A., Section 405(6)(D) re: contract negotiations with Cumberland Police Benevolent Association.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to recess to Executive Session pursuant to Title 1 M.R.S.A., 405(6)(D) re: contract negotiations with the Cumberland Police Benevolent Association.

VOTE: UNANIMOUS PASSAGE 7-0
TIME: 8:40 p.m.

Motion by Councilor Stiles, seconded by Councilor Perfetti, to return from Executive Session.

VOTE: UNANIMOUS PASSAGE 7-0
TIME: 9:15 p.m.

Motion by Councilor Stiles, seconded by Councilor Storey-King, to set a public hearing date of July 27, 2009 to consider and act on certain amendments to the 2007–2010 Agreement between the Town of Cumberland and the Cumberland Police Benevolent Association.

VOTE: UNANIMOUS PASSAGE 7-0
TIME: 9:15 p.m.

VII. ADJOURNMENT

Motion by Councilor Moriarty, seconded by Councilor Stiles, to adjourn.

VOTE: UNANIMOUS PASSAGE 7-0
TIME: 9:17 p.m.

Respectfully submitted,

Nadeen Daniels, CMC
Cumberland Town Clerk